IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4224 OF 2003

The State of Maharashtra & Ors. ...Petitioners

Versus

Ramchandra Jyotiram Thorawat ...Respondent.

WITH

WRIT PETITION NO. 4226 OF 2003

The State of Maharashtra & Ors. ...Petitioners

Versus

Ravindra Dinkar Patil ...Respondent.

WITH

WRIT PETITION NO. 4227 OF 2003

The State of Maharashtra & Ors. ...Petitioners

Versus

Shivram Bhagwan Bargaje ...Respondent.

IN ALL PETITIONS:

Mr. S.R. Nargolkar, Assistant Government Pleader,
for the Petitioners

Mr. S. Prabhu with Mr. N.V. Bandiwadekar for the Respondents.

CORAM: V.G. PALSHIKAR, Ag.C.J., &
SMT. NISHITA MHATRE, J.
DATE: FEBRUARY 2, 2006.

P.C.:-

1. By these petitions, the petitioners have challenged the order passed by the Maharashtra Administrative Tribunal allowing the original applications of the employees of the Police Department holding that enquiry cannot be conducted by the officers belonging to the Police Department itself. The Tribunal did not, while recording the said finding, consider the applications on merits of the case pertaining to particular charges levelled against departmental candidates. The question is as to whether such enquiry is to be conducted or not as considered in judgment in the case of *State of Maharashtra and Anr. v. Dilip Anant Surve* [2005 (3) Mh.L.J. 1998]. It has been clearly laid down by this Court that exercise of power under Articles 162 and 309 is distinct and for the purpose of making rules under Article 309, power under Article 162 is to be exercised. It was, therefore, held that the power to hold departmental enquiry flows from the power to take disciplinary action. That being the position, the Maharashtra Administrative Tribunal was obviously wrong in allowing all the applications and setting aside the departmental enquiry. As a result, all these writ petitions have to be allowed and orders impugned therein are to be set aside and the matters are remanded for decision on merits in each case. More than three years have

passed since these orders have been made. As a result of the orders passed by the Tribunal, the employees concerned were reinstated, some of whom have retired and some still continue in service. The impugned order in each of the petitions is set aside. Each original application is remitted back to the Maharashtra Administrative Tribunal for adjudication in accordance with law. In each matter, *status quo* as of today should be continued for a period of eight weeks from today and each original applicant should be at liberty to make interim application for continuance or grant of interim relief, as may be necessary, in each individual case. The Tribunal shall decide the matters as early as possible and preferably within six months from the date of receipt of this order. The petitions are disposed of accordingly. Rule is discharged.